

§ 234.66 Free assumability; exceptions.

For purposes of HUD's policy of free assumability with no restrictions, as provided in § 203.41 of this chapter, the definition of *Legal restrictions on conveyance* in § 203.41(a)(3) of this chapter does not include rights of first refusal held by a condominium association for a project approved by the Secretary under this subpart prior to September 10, 1993.

Subpart B—Contract Rights and Obligations—Individually Owned Units

§ 234.251 Definitions.

The definitions in § 203.251 of this chapter apply to this subpart.

[61 FR 60163, Nov. 26, 1996]

§ 234.255 Cross-reference.

(a) *Provisions.* All of the provisions of §§ 203.251 through 203.436 of this chapter (part 203, subpart B) covering mortgages insured under section 203 of the National Housing Act shall apply to mortgages insured under section 234(c) of the National Housing Act except the following provisions:

- Sec.
- 203.258 Substitute mortgagors.
- 203.259a Scope.
- 203.280 One-time MIP.
- 203.281 Calculation of one-time MIP.
- 203.282 Mortgagee's late charge and interest.
- 203.283 Refund of one-time MIP.
- 203.357 Deed in lieu of foreclosure.
- 203.378 Property condition.
- 203.379 Adjustment for damage or neglect.
- 203.380 Certificate of property condition.
- 203.389 Waived title objections.
- 203.420 Nature of Mutual Mortgage Insurance Fund.
- 203.421 Allocation of Mutual Mortgage Insurance Fund income or loss.
- 203.422 Right and liability under Mutual Mortgage Insurance Fund.
- 203.423 Distribution of distributive shares.
- 203.424 Maximum amount of distributive shares.
- 203.425 Finality of determination.
- 203.440 *et seq.* Insured home improvement loans.

(b) *References.* For the purposes of this subpart, all references in §§ 203.251 through 203.436 of this chapter (part 203, subpart B) to section 203 of the Act, one- to four-family, and the Mu-

tual Mortgage Insurance Fund, shall be construed to refer to section 234 of the act, one-family unit, and the General Insurance Fund. The term *property* or *each family dwelling unit* as used in §§ 203.251 through 203.436 of this chapter (part 203, subpart B) shall be construed to include "the one-family unit and the undivided interest in the common areas and facilities as may be designated".

[36 FR 24628, Dec. 22, 1971, as amended at 41 FR 42949, Sept. 29, 1976; 42 FR 29305, June 8, 1977; 48 FR 28807, June 23, 1983; 55 FR 34814, Aug. 24, 1990]

§ 234.256 Substitute mortgagors.

(a) *Selling mortgagor.* The requirements for the selling mortgagor are set forth in § 203.258(a) of this chapter.

(b) *Purchasing mortgagor.* (1) If the dwelling is a principal or secondary place of residence, the requirements for the purchasing mortgagor are set forth in § 203.258(b)(1) of this chapter.

(2) [Reserved]

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Direct endorsement.* Requirements for the direct endorsement program are set forth in § 203.258(f) of this chapter.

(f) *Substitute mortgagor* is defined in § 203.258(f) of this chapter.

[55 FR 34814, Aug. 24, 1990, as amended at 57 FR 38352, Dec. 9, 1992; 61 FR 60163, Nov. 26, 1996]

§ 234.259 Claim procedure—graduated payment mortgages.

Section 203.436 of this chapter applies to mortgages under this subpart.

[61 FR 60163, Nov. 26, 1996]

§ 234.260 Assignment of mortgage and certificate by mortgagee.

In addition to the requirements of §§ 203.350 through 203.353 incorporated

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by reference, the mortgagee shall certify as to any changes in the plan of apartment ownership including the administration of the property. Any changes shall require FHA approval.

[36 FR 24628, Dec. 21, 1971, as amended at 42 FR 29305, June 8, 1977]

§ 234.262 Exception to deed in lieu of foreclosure.

All of the provisions of §203.357 of this chapter relating to acceptance of a deed in lieu of foreclosure shall apply to mortgages insured under this part only if the mortgagee establishes to the satisfaction of the Commissioner that there are no unpaid assessments owed the Association or Cooperative of Owners.

§ 234.265 Contents of deed and supporting documents.

In addition to the requirements of §203.367, incorporated by reference, the deed shall comply with the plan of apartment ownership. Any changes therein, including the administration of the property, shall require FHA approval.

§ 234.270 Condition of the multifamily structure.

(a) When a family unit is conveyed or a mortgage is assigned to the Commissioner, the family unit and the common areas and facilities designated for the particular unit shall be undamaged by fire, flood, earthquake, tornado, or boiler explosion, or, as to mortgages insured on or after January 1, 1977, due to failure of the mortgagee to take action as required by §203.377. If the property has been damaged, either of the following actions shall be taken:

(1) The property may be repaired prior to its conveyance or prior to the assignment of the mortgage to the Commissioner.

(2) If the prior approval of the Commissioner is obtained, the damaged property may be conveyed or the mortgage assigned to the Secretary without repairing the damage. In such instances, the Commissioner shall deduct from the insurance benefits either his estimate of the decrease in value of the family unit or the amount of any insurance recovery received by the mortgagee, whichever is the greater.

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(b) If the property has been damaged by fire and such property was not covered by fire insurance at the time of the damage, the mortgagee may convey the property or assign the mortgage to the Commissioner without deduction from the insurance benefits for any loss occasioned by such fire if the following conditions are met:

(1) The property shall have been covered by fire insurance at the time the mortgage was insured.

(2) The fire insurance shall have been later cancelled or renewal shall have been refused by the insuring company.

(3) The mortgagee shall have notified the Commissioner within 30 days (or within such further time as the Commissioner may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the mortgagee that diligent efforts were made, but it was unable to obtain fire insurance coverage at reasonably competitive rates and that it will continue its efforts to obtain adequate fire insurance coverage at competitive rates, including coverage under the FAIR Plan. A *reasonable rate* is a rate not more than 25 percent in excess of the rate or the advisory rate filed or used by the principal rating organization doing business in the state. If the property is located in a state which has no rate or advisory rate as provided in the preceding sentence, the mortgagee shall consult the Director of the local HUD office as to a reasonable rate. When hazard insurance coverage cannot be obtained in an amount equal to the unpaid principal balance of the loan but insurance can be obtained in a reduced amount from a FAIR Plan or another insurance carrier, the Secretary will accept the reduced coverage without reduction of mortgage, insurance benefits, if the rates do not exceed the guidelines stated herein. If coverage in any amount is only available at rates in excess of a reasonable rate as defined herein, the mortgagor may but shall not be required to purchase such coverage. If coverage is purchased, the amount of any claim for insurance benefits under this part shall be reduced